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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 5928**
Masakazu KAWASAKI et al. : Docket No. 2001-1749A
Serial No. 09/979,509 : Group Art Unit 1614
Filed March 5, 2002 : Examiner Phyllis G. Spivack
MAG EXPRESSION PROMOTERS :

INTERVIEW SUMMARY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEE FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975.

Sir:

On September 27, 2004, Applicant's attorney discussed the matter raised in the Office Action of September 22, 2004 with the Examiner by telephone. Concerning the Examiner's position that the Amendment filed April 1, 2004 is non-responsive to the prior Office Action, Applicants' attorney argued that the amendments to claims 10, 12, 13 and 15 were responsive to the rejection of the claims under the first paragraph of 35 U.S.C. §112, wherein the Examiner noted that the specification provides support for the administration of a single compound as demonstrating a positive effect on "myelination of axon." [Pages 4 and 6 of the Office Action.] Accordingly, Applicants' attorney took the position that since the amendments to claims 10, 12, 13 and 15 were presented in response to a rejection under the first paragraph of 35 U.S.C. §112, the Examiner should not now take the position that these amendments present claims which are directed to an invention that is independent and distinct from the originally claimed invention. However, the Examiner indicated that her previous search of the prior art did not encompass a method for promoting myelination of axon. The Examiner suggested that the best way of proceeding would be to refile the present application as a divisional application.

Applicants are adopting the Examiner's suggestion by filing a divisional application concurrently with the filing of the instant paper.

Respectfully submitted,

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